

Date: 10/6/05  
Docket Number: 05-5088-pr  
Short Title: Tairu v. United States of America  
DC Docket Number: 05-cv-1078  
DC: EDNY (BROOKLYN)  
DC Judge: Honorable Allyne Ross

## ORDER

Leave to proceed on appeal In Forma Pauperis is Granted ~~Denied~~

Date: 10/17/05

United States District Judge

APPEAL, MJSELECT, PROSE

**U.S. District Court**  
**Eastern District of New York (Brooklyn)**  
**CIVIL DOCKET FOR CASE #: 1:05-cv-01078-ARR**  
**Internal Use Only**

Tairu v. United States of America  
Assigned to: Judge Allyne R. Ross  
Cause: 28:2255 Motion to Vacate / Correct Illegal Sentence

Date Filed: 02/22/2005  
Jury Demand: None  
Nature of Suit: 510 Prisoner: Vacate  
Sentence  
Jurisdiction: U.S. Government Defendant

**Petitioner****Suraj O. Tairu**

represented by **Suraj O. Tairu**  
29421-053  
FCC (Medium)  
P.O. Box 90043  
Petersburg, VA 23804-9003  
PRO SE

V.

**Respondent****United States of America**

Date Filed	#	Docket Text
02/22/2005	● <u>1</u>	MOTION to Vacate, Set Aside or Correct Sentence (2255), filed by Suraj O. Tairu. (Attachments: # <u>1</u> Civil Cover Sheet)(Villanueva, William) (Entered: 03/02/2005)
02/22/2005		***Magistrate Judge Gold chosen by random selection to handle matters that may be referred in this case. (Villanueva, William) (Entered: 03/02/2005)
02/22/2005		** Prisoner ProSe Flag Set (Villanueva, William) (Entered: 03/02/2005)
03/09/2005	● <u>2</u>	OPINION AND ORDER: This order amends a previous order, dated 3/1/2005, issued under the docket number 92-CV-977(ARR). Because the Court of Appeals denied petitioner's motion to file a successive 28 U.S.C. sec. 2255 motion, the Court may not consider Tairu's petition. The Court thus transfers the successive petition to the Court of Appeals. This Order closes the case. If the Court of Appeals authorizes petitioner to proceed in this matter, he shall move to reopen under this docket number. So Ordered. (Signed by Judge Allyne R. Ross on 3/3/2005) C/M by Chambers. (Latka-Mucha, Wieslawa) (Entered: 03/09/2005)

03/09/2005		***Civil Case Terminated as per doc.# <u>2</u> . (Latka-Mucha, Wieslawa) (Entered: 03/09/2005)
03/10/2005	● <u>3</u>	Amended OPINIONAND ORDER transferring this successive petition to the USCA. Signed by Judge Allyne R. Ross on 3/3/05. (Note: previous order dated 3/3/05 issued under docket #92-cv-977).(Glenn, Marilyn) (Entered: 03/10/2005)
07/07/2005	● <u>4</u>	Letter dated June 28, 2005 from Suraj Tairu,pro se. to Judge Ross, enclosing a copy of the Order from the Second Circuit Court of Appeals, remanding the 2255 motion. (Williams-Jackson, Sandy) (Entered: 07/08/2005)
07/13/2005	● <u>5</u>	AMENDED OPINION AND ORDER: Petitioner is hereby ordered to show cause by written affirmation, within 60 days from the date of this order, why his habeas petition should not be dismissed as time-barred by demonstrating that the statue of limitations should be equitably tolled. Petitioner's affirmation should include any facts which would support tolling of the statue of limitations. No answer shall be required at this time and all further proceedings shall be stayed for 60 days or until the petitioner has complied with this order. If petitioner fails to comply with this order within the time allowed, the instant petition shall be dismissed as time-barred. So Ordered. (Ordered by Judge Allyne R. Ross on 7/11/2005) C/M (Latka-Mucha, Wieslawa) (Entered: 07/13/2005)
08/01/2005	● <u>6</u>	AFFIRMATION Showing Cause Why Instant Petition Should Not Be Dismissed As Time-Barred; filed by Suraj O. Tairu, dated 6/27/2005. W/Attachments. *Forwarded to Judge Ross. (Latka-Mucha, Wieslawa) (Entered: 08/09/2005)
08/12/2005	● <u>7</u>	ORDER: Petitioner has provided no justification for tolling the limitations period for approximately six and one-half years, aside from his reliance on Crawford. As a result, the Court dismisses the instant petition as untimely. No certificate of appealability is granted with respect to any of the petitioner's claims, since the petitioner failed to make a substantial showing of any denial of his constitutional rights. The petitioner has a right to seek a certificate of appealability from the United States Court of Appeals for the Second Circuit. The Clerk of the Court is directed to enter judgment accordingly. So Ordered. (Ordered by Judge Allyne R. Ross on 8/11/2005) C/M by Chambers. *Forwarded for Judgment. (Latka-Mucha, Wieslawa) (Entered: 08/12/2005)
08/16/2005	● <u>8</u>	JUDGMENT: It is ORDERED and ADJUDGED that petitioner take nothing of the respondent; that judgment is hereby entered denying the petition for a writ of habeas corpus; and that no Certificate of Appealability is granted with respect to any of the petitioner's claims. c/m with appeal packet. Ordered by Clerk of Court on 8/15/05. (Williams-Jackson, Sandy) (Entered: 08/16/2005)
09/14/2005	● <u>9</u>	NOTICE OF APPEAL as to <u>7</u> Order, <u>8</u> Order/Judgment by Pro Se Pltff Suraj O. Tairu. No fee paid. IFP pending. COA denied. Brief in support of COA forwarded to USCA. Service made by Clerk. (McGee, Mary Ann)

		(Entered: 09/20/2005)
09/20/2005	●	Electronic Index to Record on Appeal sent to US Court of Appeals re <u>9</u> Notice of Appeal, <u>3</u> Memorandum & Opinion, <u>7</u> Order,,, <u>8</u> Order,, <u>6</u> Affidavit, <u>5</u> Memorandum & Opinion,,,, <u>2</u> Memorandum & Opinion,,, <u>1</u> Motion to Vacate/Set Aside/Correct Sentence (2255), <u>4</u> Letter For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. (McGee, Mary Ann) (Entered: 09/20/2005)

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